

FILE COPY

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION :  
FOR A PRIVATE SECURITY PERMIT :

CURTIS PAYTON,  
APPLICANT :

NOTICE OF DENIAL  
OF APPLICANT'S  
REQUEST FOR HEARING  
AND ORDER

98 RSG 036

LS9808195RSG

TO: Curtis Payton  
2512 N. 24th Street  
Milwaukee, WI 53206

**PLEASE TAKE NOTICE THAT** the applicant's request for a hearing on the Department of Regulation and Licensing's (hereinafter "Department") August 4, 1998, Notice of Denial of application for a Private Security Permit in the state of Wisconsin is **DENIED**.

Based upon the record in this matter, the Department makes the following:

**FINDINGS OF FACT**

1. On or about July 13, 1998, Curtis Payton submitted an application for a Private Security Permit. A true and correct copy of Mr. Payton's application file is attached to this document as Exhibit A. Exhibit A is incorporated by reference into this document.
2. In Mr. Payton's original application materials, he indicated "Yes" in response to the following question:  
  
Have you ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this or any other state, **OR** are criminal charges or DWI charges currently pending against you? If YES, complete and attach Form #2252.
3. A search of the records of the Crime Information Bureau (CIB) in the Department of Justice indicates a felony conviction.
4. On or about August 4, 1998, The Department of Regulation and Licensing denied Mr. Payton's application for licensure based on its determination that Mr. Payton had been convicted of a felony.
5. The findings set forth above are not contested in the applicant's August 8, 1998, request for hearing.

6. The applicant's August 8, 1998, request for hearing does not contain an allegation of any error of fact or of law for his claim that the denial of his application should be overturned.

### CONCLUSIONS OF LAW

1. Based upon the application record and applicant's request for hearing, there exists no issue of material fact<sup>1</sup> upon which a hearing is warranted.
2. Applicant's request for hearing does not contain the elements required by administrative code to mandate the grant of a hearing in this matter."
3. The applicant's criminal record, which includes a felony conviction, constitutes a bar to the issuance of a security guard permit under section 440.26(5m)(2) of the Wisconsin statutes."

### ORDER

1. Based upon the record in these proceedings, it is ordered that the applicant's request for hearing is **DENIED**, and no hearing shall be scheduled.
2. The application of Curtis Payton for a Private Security Permit is **DENIED**.
3. This document constitutes the Department's Final Decision and Order in this matter.

Dated this 18 day of August, 1998.

DEPARTMENT OF REGULATION AND LICENSING

  
On Behalf of the Department

<sup>1</sup> Sec. 227.42, Stats., provides:

**Right to hearing.** (1) In addition to any other right provided by law, any person filing a written request with an agency for hearing shall have the right to a hearing which shall be treated as a contested case if:

- (a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;
- (b) There is no evidence of legislative intent that the interest is not to be protected;
- (c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and

---

**(d) There is a dispute of material fact.**

" Wis. Admin. Code § RL 1.07 provides in pertinent part:

Request for Hearing. . . . The request [for hearing] shall . . . set forth all of the following:

. . . .

(3) A specific description of the mistake in fact or law which constitutes reasonable grounds for reversing the decision to deny the application for a credential. If the applicant asserts that a mistake in fact was made, the request shall include a concise statement of the essential facts which the applicant intends to prove at the hearing. If the applicant asserts a mistake in law was made, the request shall include a statement of the law upon which the applicant relies.

Wis. Admin. Code § RL 1.08(1) provides in pertinent part:

A request shall be granted if requirements in s. RL 1.07 are met . . . .

" Sec. 440.26(5m), Stats. , provides in pertinent part:

**Private security permit.** (a) The department shall issue a private security permit to an individual if all of the following apply: . . . 2. The individual has not been convicted in this state or elsewhere of a felony, unless he or she has been pardoned for that felony.

**EXHIBIT A  
INDEX**

**PAGE(S)    DOCUMENT**

1-5            Application for Private Security Permit, dated 7-13-98

6              Milwaukee County Circuit Court Conviction record re: Curtis Payton

7-9            Notice of Denial, dated 8-4-98

10             Affidavit of Mailing, dated 8-4-98

11             Request for Hearing, dated 8-8-98

# Department of Regulation & Licensing

State of Wisconsin

Information requested below is required  
for processing this application.

P.O. Box 8935, Madison, WI 53708-8935

(608) 266-5511

TTY# (608) 267-2416, hearing or speech  
TRS# 1-800-947-3529, impaired only

FAX# (608) 267-3816

## BUREAU OF DIRECT LICENSING AND REAL ESTATE APPLICATION FOR PRIVATE SECURITY PERMIT

TYPE OR PRINT IN INK

### SECTION A: TYPE OF APPLICANT. Check one of the boxes below and provide required documents.

- ☐ I hold a current private security permit from the following Wisconsin law enforcement agency or agencies (please attach a photocopy of at least one permit and a recent photo of head and shoulders only): \_\_\_\_\_
- ☐ I do not hold a current private security permit from a Wisconsin law enforcement agency. I have enclosed a check or money order made payable to the Department of Regulation and Licensing for \$68 which is the sum of a \$39 registration fee and a \$29 criminal records search. I have also enclosed a properly-completed CIB and FBI fingerprint card and a photograph of head and shoulders only. (NOTE: Print your name on your photograph.)

### SECTION B: TO BE COMPLETED BY APPLICANT.

LAST NAME

Payton

FIRST NAME

Curtis

MIDDLE INITIAL

Enter the Address At  
Which You Reside.

(A P.O. Box alone is not  
sufficient for licensing.)

2512 Nth 24th St.

Number

Street

PO Box

Milwaukee,

City

WI.

State

53206

Zip Code

### IDENTIFICATION INFORMATION, RELATING TO FINGERPRINT CARDS

Height

5' 8"

Weight

150 LBS.

Eye Color

Brn.

Hair Color

Blk.

Sex

☒ Male  
☐ Female

Date of Birth

01 24 70  
Month Day Year

How Do You Describe Yourself?

- ☐ White, not of Hispanic Origin  
☒ Black, not of Hispanic Origin  
☐ Hispanic
- ☐ American Indian or Alaskan  
☐ Asian or Pacific Islander  
☐ Other

Daytime Telephone Number:

(414) 264-8846

For Receipting Use Only

Department Use Only	
Registration Type <u>108</u>	Permit Number
Date Granted	Date Expires <u>8/31/2000</u>
Temporary Permit Issued::	
CIB Name Check Done:	<u>7/14/98</u>
CIB FP Card Sent:	<u>7/14/98</u>
FBI FP Card Sent:	<u>7/14/98</u>

TRANSACTION #454

41 \$3108 7000 108 SECR GRD 41.00  
29 CIB FEE 8312 29.00  
TAX .00  
TOTAL 70.00

L1 C4 10:27 13/JUL/98 M1 1-24 5-

# State of Wisconsin Department of Regulation & Licensing

## STATEMENT OF ARREST OR CONVICTION: MARK AN X IN THE APPROPRIATE BOX.

If you answer YES to any questions, give all details on a separate sheet.

- |  | YES                                 | NO                                  |
|--|-------------------------------------|-------------------------------------|
| A. Have you ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this or any other state, OR are criminal charges or DWI charges currently pending against you? <u>If YES, complete and attach Form #2252.</u>   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. Have you ever surrendered, resigned, cancelled or been denied a professional license or other credential in Wisconsin or any other jurisdiction? <u>If YES, give details on an attached sheet, including the name of the profession and the agency.</u>   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Has any licensing or other credentialing agency ever taken any disciplinary action against you, including but not limited to, any warning, reprimand, suspension, probation, limitation or revocation? <u>If YES, attach a sheet providing details about the action, including the name of the credentialing agency and date of action.</u> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| D. Is disciplinary action pending against you in any jurisdiction? <u>If YES, attach a sheet providing details about pending action, including the name of the agency and status of action.</u>  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| E. Have any suits or claims ever been filed against you as a result of professional services? <u>If YES, submit a copy of the claim or suit and a copy of the final settlement or disposition.</u>   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| F. Do you currently hold, or have you in the past held, any credential (license) issued by the Department of Regulation and Licensing or any of the Boards? <u>If YES, what type of credential?</u>  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

And if in another name, what name? \_\_\_\_\_

**LIST ANY OTHER NAMES YOU HAVE EVER USED (e.g., Legal Name Change, Maiden Name, Alias), AND ESPECIALLY, ANY NAMES UNDER WHICH YOU HAVE BEEN ARRESTED.**

\_\_\_\_\_  
\_\_\_\_\_

## APPLICANT MUST SIGN

I state that I am the person referred to on this application and that all the answers set forth are strictly true in each respect. I understand that omissions, misleading, false or forged statements made in connection with this application may be grounds for revocation of my permit or other disciplinary action. I also understand that if I am issued a permit, I may be disciplined for failure to comply with the Wisconsin statutes and rules of the Department of Regulation and Licensing.

Curtis Payton  
Signature of Applicant

6/27/96  
Date

State of Wisconsin Department of Regulation & Licensing

SECTION C: TO BE COMPLETED BY AGENCY EMPLOYER

Name of Employing Agency Exactly As It Appears on the Agency's License.

Rucker Detective Agency

Address of the Employing Agency's Main Office As It Appears on the Agency's License.

5310

Business Address of the Employing Agency's Main Office.

161 W. Wisconsin Ave #3002  
Number Street PO Box  
Milwaukee, WI 53203  
City State Zip Code

Main Office Telephone Number.

(414) 271-5987

SIGNATURE OF AGENCY EMPLOYER

THE FOLLOWING STATEMENT MUST BE SIGNED BY ONE OF THE FOLLOWING REPRESENTATIVES OF A LICENSED DETECTIVE AGENCY WHO HAS THE AUTHORITY TO SIGN ON BEHALF OF THE AGENCY:

- SOLE PROPRIETOR OWNER
- OFFICER OF A CORPORATION
- PARTNER OF A PARTNERSHIP
- MEMBER OF A LIMITED LIABILITY COMPANY
- MANAGER OR SUPERVISOR

I hereby certify that the agency identified in SECTION C above will assume responsibility for the security of the applicant pursuant to the Department rules and will notify the Department of any change in employment within 5 days after the change. To my knowledge all statements on this application are complete, true and correct.

Carl Rucker

Signature of Agency Sole Proprietor, Officer, Partner, Member, Manager or Supervisor

6-22-98  
Date

CARL RUCKER

Print or Type Name of Person Signing Above.

1. The first part of the document is a list of names and addresses of the members of the committee. The names are listed in alphabetical order, and the addresses are given in full. The list is as follows:

Name	Address
Mr. A. B. C.	123 Main Street, New York, N.Y.
Mr. D. E. F.	456 Broadway, New York, N.Y.
Mr. G. H. I.	789 Fifth Avenue, New York, N.Y.
Mr. J. K. L.	1010 Park Avenue, New York, N.Y.
Mr. M. N. O.	1111 Madison Avenue, New York, N.Y.
Mr. P. Q. R.	1212 Lexington Avenue, New York, N.Y.
Mr. S. T. U.	1313 York Avenue, New York, N.Y.
Mr. V. W. X.	1414 East 86th Street, New York, N.Y.
Mr. Y. Z. A.	1515 East 79th Street, New York, N.Y.
Mr. B. C. D.	1616 East 72nd Street, New York, N.Y.
Mr. E. F. G.	1717 East 65th Street, New York, N.Y.
Mr. H. I. J.	1818 East 58th Street, New York, N.Y.
Mr. K. L. M.	1919 East 51st Street, New York, N.Y.
Mr. N. O. P.	2020 East 44th Street, New York, N.Y.
Mr. Q. R. S.	2121 East 37th Street, New York, N.Y.
Mr. T. U. V.	2222 East 30th Street, New York, N.Y.
Mr. W. X. Y.	2323 East 23rd Street, New York, N.Y.
Mr. Z. A. B.	2424 East 16th Street, New York, N.Y.
Mr. C. D. E.	2525 East 9th Street, New York, N.Y.
Mr. F. G. H.	2626 East 2nd Street, New York, N.Y.



Application Addendum

## CONVICTIONS AND PENDING CHARGES

[You must complete this form if you checked "Yes" in response to any of the application questions on convictions or pending charges.]

Your application states that you have been convicted of a crime, or that criminal charges are pending against you. The Fair Employment Act (sections 111.31 through 111.395 of the Wisconsin Statutes) prohibits employment discrimination on the basis of conviction record or arrest record unless the circumstances of the conviction or arrest "substantially relate to the circumstances of the particular job or licensed activity". The information requested in this form will be used to determine whether your application should be granted, approved with limitations, or denied. **This form must be signed and notarized.** The information you provide in this form may be verified against criminal information records, and an omission of information on this form will be considered a false statement on an application.

For questions, contact Marlene Maly, Bureau of Direct Licensing and Real Estate, at (608) 266-5511, press 3, press 2)

(Hearing or speech impaired only: TTY# (608) 267-2416; TRS# 1-800-947-3529).

Please Type or Print in Ink

Type of Credential: \_\_\_\_\_

Name: Curtis Payton Date of Birth: 01-24-70

Address: \_\_\_\_\_

Race\*: Blk Sex\*: Male Social Security Number\*\*: 395-70-5021

\*This information is necessary to check criminal information records. \*\*This information helps us but is voluntary.

1. List any other names you have ever used, especially any names under which you have been arrested:

\_\_\_\_\_  
\_\_\_\_\_

2. List all felonies, misdemeanors, traffic crimes and other violations of state or federal law of which you have ever been convicted, in this or any other state, whether the conviction resulted from a plea of no contest or a guilty plea or verdict. For each, list the date of conviction, the location of the court (county and state) and the complete sentence received (fine, imprisonment, probation, etc.). Do not include municipal ordinance violations or traffic offenses, except: include convictions for any offenses involving alcohol or drug use, especially convictions for operating a motor vehicle while intoxicated (OWI, DUI, etc.). Attach another sheet if necessary.

Offense	Date	Location	Sentence
<u>Child Support</u>	<u>4-29-78</u>		<u>Child support deduction from my check</u>

3. Have you ever been sentenced by a court to participate in an alcohol or other drug assessment, treatment, or counseling program? \_\_\_\_\_ Yes X No.

4. If your answer to the above is "yes", did you successfully complete the program? \_\_\_\_\_ Yes \_\_\_\_\_ No  
When? \_\_\_\_\_ What evidence can you provide that you successfully completed the program? (Attach certificate of completion or provide name and address of agency for verification.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Have you ever been sentenced to probation, been placed on parole, or been ordered to pay restitution? \_\_\_\_ Yes + No
6. If your answer to the above is "yes", did you successfully complete probation or parole, or make restitution as ordered? \_\_\_\_ Yes \_\_\_\_ No. When? \_\_\_\_\_

List the name(s), address(es) and phone number(s) of any probation or parole officer(s) presently or previously assigned to you or your case(s):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

7. List all felonies, misdemeanors, traffic crimes and other violations of state or federal law for which you have been arrested and which are pending. For each, list the date of arrest, the location of the court (county and state), and the current status of the charge. Attach another sheet if necessary.

Offense	Date	Location	Current Status
Chld. Suppt.	4-29-98		

8. Give any explanation you feel necessary with regard to your convictions or pending charges. Attach another sheet if necessary. \_\_\_\_\_

### AFFIDAVIT OF APPLICANT

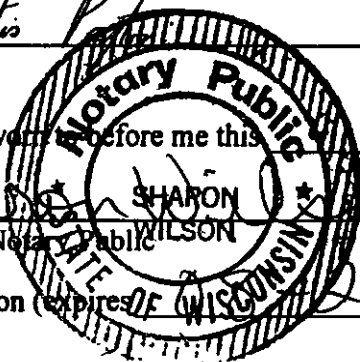
I state that I am the person referred to in this document and that all the information which I provided above is true in every respect. I understand that false or forged statements made in this document in connection with my application for a credential, or failing to provide relevant information, may be grounds for denial of the application, revocation of any credential granted to me, or criminal prosecution.

Curtis P.  
 Signature

6-27-98  
 Date

Signed and sworn to before me this 27 day of 19 98.

Sharon Wilson  
 Signature of Notary Public



SEAL

My commission (expires 12-29-99) (is permanent).

State of Wisconsin  
 DEPARTMENT OF REGULATION AND LICENSING  
 BUREAU OF DIRECT LICENSING & REAL ESTATE  
 P.O. BOX 8935, MADISON, WI 53708-8935

JUSTIS ID: 01093271    Name: Payton, Curtis  
DOB: 01-24-1970    Sex: M    Race: African American

Include forfeiture/traffic

Includes no process cases

Include no process cases.

Case: 94CT404563    Status: CL    State vs Curtis Payton    Dugan-10, Timot

Charges:

1    343 44    OU    DRIVING WHILE LICENSE REVOK OR SUSP    Dispo: 21    09-29-1994

Case: 97CF971059    Status: CL    State vs Curtis Payton    Moroney-20, Den

Charges:

1    948 22(2)    FE    FELONY FAILURE TO SUPPORT    Dispo: 21    05-13-1997

Case: 97CF971060    Status: CL    State vs Curtis Payton    Moroney-20, Den

Activities:

Review    09-22-1998    8:30 am    Moroney-20, Den

Charges:

1    948.22(2)    \* FE    FELONY FAILURE TO SUPPORT    Dispo: 23    04-29-1998

Judgment of Conviction

Probation ordered, sentence imposed and stayed    3 YR    3 YR    05-29-1998

Sentences:

State prison    2 YR    05-29-1998

\* Is felony conviction per Clerk of Court.



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson  
Governor



Mariene A. Cummings  
Secretary

1400 E WASHINGTON AVENUE  
P.O. BOX 8935  
MADISON WISCONSIN 53708-8935  
E-Mail: dorl@mail.state.wi.us  
(608) 266-2112  
FAX# (608) 267-0644

August 4, 1998

CURTIS PAYTON  
2512 N 24TH ST  
MILWAUKEE WI 53206

**RE: APPLICATION FOR PRIVATE SECURITY PERMIT;  
NOTICE OF DENIAL**

Dear Mr. Payton:

PLEASE TAKE NOTICE that the State of Wisconsin, Department of Regulation and Licensing (department), has reviewed your application for a private security permit and denies the application for the following reasons:

**A. Reasons for Denial:**


1. The application for a private security permit requires that you answer question "A" under "STATEMENT OF ARREST OR CONVICTION" on the application form which states:
  - A. Have you ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this or any other state, OR are criminal charges or DWI charges currently pending against you? If YES, complete and attach Form #2252.
2. Your response to question "A" was to check the box marked "YES". You completed Form #2252 (CONVICTIONS AND PENDING CHARGES) indicating that you were convicted in 1998 of child support.
3. According to information received from the Milwaukee County Clerk of Court's Office, you were convicted of a felony on April 29, 1998 of failure to support (Case #97CF971060).
4. Documentation on file establishes that you have been convicted of a felony, therefore, you do not qualify for a private security permit.

B. The legal basis for this decision is:

1. Section 440.26(5m)(a)2, Stats., states:

(5m) Private security permit. (a) The department shall issue a private security permit to an individual if all of the following apply:

2. The individual has not been convicted in this state or elsewhere of a felony, unless he or she has been pardoned for that felony.

  
CLETUS J. HANSEN, DIVISION ADMINISTRATOR  
DIVISION OF BUSINESS LICENSURE AND REGULATION

**NOTICE OF RIGHT TO HEARING ON CREDENTIAL DENIAL**

PLEASE NOTE that you have a right to a hearing on the denial of your application if you file a request for hearing in accordance with the provisions of Ch. RL 1 of the Wisconsin Administrative Code. You may request a hearing within 45 calendar days after the mailing of this notice of denial. Your request must be submitted in writing to the:

Department of Regulation and Licensing  
Bureau of Direct Licensing and Real Estate  
1400 East Washington Avenue  
PO Box 8935  
Madison, WI 53708-8935

The request must contain your name and address, the type of credential for which you have applied, a specific description of the mistake in fact or law that you assert was made in the denial of your credential, and a concise statement of the essential facts which you intend to prove at the hearing. You will be notified in writing of the department's decision. Under s. RL 1.08 of the Wisconsin Administrative Code, a request for a hearing is denied if a response to a request for a hearing is not issued within 45 days of its receipt by the department. Time periods for a petition for review begin to run 45 days after the department has received a request for a hearing and has not responded.

**NOTICE OF RIGHT TO WITHDRAW REQUEST FOR HEARING**

A request for hearing may be withdrawn at any time. Upon the filing of a request for withdrawal, the credentialing authority shall issue an order affirming the withdrawal of a request

for hearing on the denial. Such a withdrawal shall be with prejudice unless otherwise expressly stated in the order.

If you have any questions concerning this matter, contact Marlene Maly at 608-266-5511 Ext. 32.

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

In The Matter Of The Application For A :  
Private Security Permit For :  
CURTIS PAYTON, :  
Applicant :


AFFIDAVIT OF MAILING

STATE OF WISCONSIN )  
 )  
COUNTY OF DANE )

I, Marlene M. Maly, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On August 4, 1998 I served the annexed Notice of Intent to Deny upon the applicant by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named applicant and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by first class mail.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the applicant's last-known address and is:

2512 N 24TH ST  
MILWAUKEE WI 53206

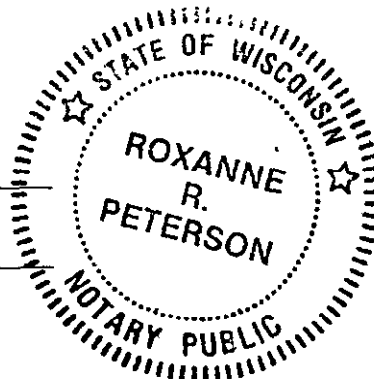
  
Marlene M. Maly  
Department of Regulation and Licensing

Subscribed and sworn to before me  
this 4<sup>th</sup> day of August, 1998.



Notary Public, State of Wisconsin

My Commission Expires 2/7/99



August 8, 1998

Cletus Hansen, Administrator  
Department of Regulation & Licensure  
P.O. Box 8935  
Madison, WI. 53708

- RE: Request for reconsideration  
of notice of appeal, Licence denial

I Curtis Payton appeal the Licence  
denial for the following reasons.

- 1) My Conviction was for failure to support, I  
fail to pay support because I was unemployed
- 2) My Conviction is in no way related to the practice  
of a security guard.

please reconsider my application for a permit or a  
alternative, Reconsider this letter an appeal of your  
denial of my guard permit

Thank you....

Curtis Payton  
Curtis Payton



STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

In the Matter of the Application for a Private Security Permit

Curtis Payton,

AFFIDAVIT OF MAILING


Applicant.

STATE OF WISCONSIN    )  
                                  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:


1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On August 25, 1998, I served the Notice of Denial of Applicant's Request for Hearing and Order dated August 18, 1998, LS9808195RSG, upon the Applicant Curtis Payton by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Applicant and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 717.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Applicant's last-known address and is:

Curtis Payton  
2512 N. 24th Street  
Milwaukee WI 53206

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 25<sup>th</sup> day of August, 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

## NOTICE OF RIGHTS OF APPEAL

TO: CURTIS PAYTON

You have been issued an Order. For purposes of service the date of mailing of this Order is 8/25/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935

#### 227.49 Petitions for rehearing in contested cases.

(1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

#### 227.53 Parties and proceedings for review.

(1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board or the savings bank review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 5.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the

circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. . . .

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board and the savings bank review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.